

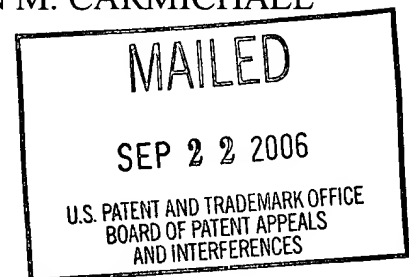
The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT C.U. YU, ANTHONY M. HORGAN, SATCHIDANAND
MISHRA, DONALD C. VON HOENE, BING R. HSIEH, EDWARD F.
GRABOWSKI, RICHARD L. POST, and KATHLEEN M. CARMICHAEL

Application 09/683,329
Technology Center 1700



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 13, 2006. A review has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

This application was recently at the BPAI and was issued a Panel Remand to the Examiner (mailed October 27, 2005), to clarify issues regarding claim interpretation. The Examiner responded to the Remand, but not appropriately. The letter mailed by the Examiner on December 20, 2005 is technically a Supplemental Examiner's Answer which would have been the proper course of action to take in responding to the Panel Remand issued by the BPAI. It is hereby

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ordered that the Examiner follow proper procedures and reformat the letter in accordance with 37 CFR § 41.50(a)(2) and issue a Supplemental Examiner's Answer. Further, in a letter mailed April 10, 2006, the Examiner denies entry of the Appellant's Reply Brief submitted and received by the Office on February 17, 2006, stating that it will not be considered because there was no Supplemental Examiner's Answer written, and that the Reply Brief is not timely. The Examiner is clearly in error. It is vital that the Examiner take corrective steps to rectify the above-mentioned matters.

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- (1) issue an appropriate Supplemental Examiner's Answer with regard to the Panel Remand issued by the BPAI on October 27, 2005;
- (2) to consider the timely filed Reply Brief submitted by the Appellants on February 17, 2006 by indicating such in writing, and have said consideration made of record; and
- (3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW

Deputy Chief Appeals Administrator
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